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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LA VAUGHN F. WATTS, JR., NOBUYUKI ALBERT SATO,
and GARY DOUGLAS HUBER

Appeal 2009-003806
Application 09/770,162
Technology Center 2600

Decided: February 3, 2010

Before, ROBERT E. NAPPI, MARC S. HOFF, and
KARL D. EASTHOM, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1-27. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejection of these claims.

INVENTION

The invention is directed to a mobile computing method and system comprising a PC and a PDA system wherein the devices communicate (i.e., receive messages) from one another regardless of the state of the other system. The received messages and files are automatically arranged according to user preferences in order to conserve memory space and user intervention. *See* Spec: 1-3. Claim 1 is representative of the invention and reproduced below:

1. A mobile computing system comprising:
 - a common communication device;
 - a personal computing system (PC) coupled to the common communication device, the PC including a storage device capable of receiving and storing messages from the communication device;
 - a personal digital assistant system (PDA) coupled to the common communication device, the PDA including a storage device capable receiving and storing messages from the communication device, whereby the storage device of the PC is capable of synchronizing messages received from the common communication device with the storage device of the PDA, and wherein
 - the PC and the PDA are capable of controlling the common communication device, but one of the PC and the PDA controlling the common-communication device at a given time.

REFERENCES

Mousseau	US 6,779,019 B1	Aug. 17, 2004 (filed Apr. 10, 2000)
Dobson	US 6,891,887 B1	May 10, 2005 (filed Jun. 20, 2001)

REJECTION AT ISSUE

Claims 1-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mousseau in view of Dobson. Ans. 3-8.

ISSUES

Rejection of claims 1-27 under 35 U.S.C. § 103(a) as being unpatentable over Mousseau in view of Dobson

Independent claim 1 and Dependent claims 2-7

Appellants argue on page 6 of the Appeal Brief that the Examiner's rejection of claims 1-7 is in error. Appellants argue that neither reference teaches a common communication device that is coupled between a PC and a PDA. App. Br. 6. Appellants additionally argue that neither reference teaches "*where the storage device of the PC synchronizes messages received from the common communication device with the storage device of the PDA, and where the PC and the PDA are capable of controlling the common communication device, but one of the PC and the PDA controlling the common communication device at a given time.*" App. Br. 6.

Thus, Appellants' contentions with respect to claims 1-7 present us with two issues. (1) Have Appellants shown that the Examiner erred in finding that Mousseau in view of Dobson discloses a common

communication device that is coupled between a PC and a PDA? (2) Have Appellants shown that the Examiner erred in finding that Mousseau in view of Dobson discloses where the storage device of the PC synchronizes messages received from the common communication device with the storage device of the PDA, and where the PC and the PDA are capable of controlling the common communication device, but one of the PC and the PDA controlling the common communication device at a given time?

Independent claim 8 and Dependent claims 9-11

Appellants argue on pages 6-7 of the Appeal Brief that the Examiner's rejection of claims 8-11 is in error. Appellants make the same conclusory argument that was made with respect to claims 1-7. App. Br. 6-7. Thus, Appellants' arguments with respect to claims 8-11 present us with the same issues as claims 1-7.

Independent claim 12 and Dependent claims 13-15, 17, 19, 21-23, 25, and 27¹

Appellants argue on page 7 of the Appeal Brief that the Examiner's rejection of claims 12-15, 17, 19, 21-23, 25, and 27 is in error. Appellants argue that neither reference discloses "*the first computer system and the second computer system are capable of controlling the common communication device with one of the first computer system and the second computer system controlling the common communication device at a given*

¹We note that Appellants have mistakenly combined the dependent claims with the wrong independent claims. However, we have addressed the arguments of the independent claims with their appropriate dependent claims.

time...and deleting synchronized and archived messages whenever the first memory device is filled.” App. Br. 7.

Thus, Appellants’ contentions with respect to claims 12-15, 17, 19, 21-23, 25, and 27 present us with the issue: Have Appellants shown that the Examiner erred in finding that Mousseau in view of Dobson discloses a first computer system and a second computer system capable of controlling a common communication device with one of the first computer system and the second computer system controlling the common communication device at a given time...and deleting synchronized and archived messages whenever the first memory device is filled?

Independent claim 16 and Dependent claims 18, 24, and 26

Appellants argue on page 7 of the Appeal Brief that the Examiner’s rejection of claims 16, 18, 24, and 26 is in error. Appellants make the same conclusory argument that was made with respect to claims 12-15, 17, 19, 21-23, 25, and 27. App. Br. 7. Thus, Appellants’ arguments with respect to claims 16, 18, 24, and 26 present us with the same issues as claims 12-15, 17, 19, 21-23, 25, and 27.

PRINCIPLES OF LAW

Office personnel must rely on Appellants’ disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). “[I]nterpreting what is *meant* by a word *in* a claim is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.” *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348 (Fed.

Cir. 2002) (internal quotation marks and citations omitted; emphasis in original).

The Examiner bears the initial burden of presenting a prima facie case of obviousness, and Appellant has the burden of presenting a rebuttal to the prima facie case. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Appellant has the burden, on appeal to the Board, to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

ANALYSIS

Rejection of claims 1-27 under 35 U.S.C. § 103(a) as being unpatentable over Mousseau in view of Dobson

Independent claim 1 and Dependent claims 2-7

Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1-7. Claim 1 recites "a common communication device." Claims 2-7 depend upon claim 1, but were not argued separately. Therefore, claim 1 is selected to represent this group.

The Examiner finds that Mousseau discloses a server computer 10B which runs redirection server software 12B that is equivalent to the claimed "common communication device." Ans. 3. The Examiner also finds that Dobson discloses a printer 560 and copier 570 that are equivalent to common communication devices. Ans. 4. Appellants have not contested these findings by the Examiner. Instead, Appellants argue that "the central node 500 of Dobson is not a common communication device. . . ." App. Br. 6. The Examiner did not equate the central node 500 of Dobson to the claimed communication device. Therefore, Appellants have not

demonstrated that the Examiner erred. As a result, we do not find Appellants' arguments to be persuasive.

Additionally, Appellants argue that neither reference teaches “where the storage device of the PC synchronizes messages received from the common communication device with the storage device of the PDA, and where the PC and the PDA are capable of controlling the common communication device, but one of the PC and the PDA controlling the common communication device at a given time.” App. Br. 6. Appellants' statement merely concludes this finding is in error without citing evidence or further explanation. We consider such a conclusory assertion without supporting explanation or analysis particularly pointing out errors in the Examiner's reasoning to fall short of persuasively rebutting the Examiner's prima facie case of obviousness. See *Oetiker*, 977 F.2d at 1445.

Therefore, for the reasons stated above, we sustain the Examiner's rejection of claims 1-7.

Independent claim 8 and Dependent claims 9-11

Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 8-11. Appellants arguments present the same issues as discussed *supra* with respect to claims 1-7. App. Br. 6-7. Therefore, we sustain the Examiner's rejection of claims 8-11 for the reasons discussed *supra* with respect to claims 1-7.

Independent claim 12 and Dependent claims 13-15, 17, 19, 21-23, 25, and

27

Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 12-15, 17, 19, 21-23, 25, and 27. Appellants

argue that neither reference discloses “*the first computer system and the second computer system are capable of controlling the common communication device with one of the first computer system and the second computer system controlling the common communication device at a given time...and deleting synchronized and archived messages whenever the first memory device is filled.*” App. Br. 7. Appellants’ statement merely concludes this finding is in error without citing evidence or further explanation. We consider such a conclusory assertion without supporting explanation or analysis particularly pointing out errors in the Examiner’s reasoning to fall short of persuasively rebutting the Examiner’s prima facie case of obviousness. *See Oetiker*, 977 F.2d at 1445.

Therefore, for the reasons stated above, we sustain the Examiner’s rejection of claims 12-15, 17, 19, 21-23, 25, and 27.

Independent claim 16 and Dependent claims 18, 24, and 26

Appellants’ arguments have not persuaded us of error in the Examiner’s rejection of claims 16, 18, 24, and 26. Appellants arguments present the same issues as discussed *supra* with respect to claims 12-15, 17, 19, 21-23, 25, and 27. App. Br. 7. Therefore, we sustain the Examiner’s rejection of claims 16, 18, 24, and 26 for the reasons discussed *supra* with respect to claims 12-15, 17, 19, 21-23, 25, and 27.

CONCLUSION

Appellants have not shown that the Examiner erred in finding that Mousseau in view of Dobson discloses a common communication device that is coupled between a PC and a PDA.

Appellants have not shown that the Examiner erred in finding that Mousseau in view of Dobson discloses where the storage device of the PC synchronizes messages received from the common communication device with the storage device of the PDA, and where the PC and the PDA are capable of controlling the common communication device, but one of the PC and the PDA controlling the common communication device at a given time.

Appellants have not shown that the Examiner erred in finding that Mousseau in view of Dobson discloses a first computer system and a second computer system capable of controlling a common communication device with one of the first computer system and the second computer system controlling the common communication device at a given time and deleting synchronized and archived messages whenever the first memory device is filled.

SUMMARY

The Examiner's decision to reject claims 1-27 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

Appeal 2009-003806
Application 09/770,162

AFFIRMED

ELD

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